Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

MATTHEW CARPENTER
Petitioner(s)

v.

CHILDREN AND YOUTH SERVICES

On Petition For Writ Of Certiorari
To The Third Circuit Court of Appellee's

PETITION FOR WRIT OF CERTIORARI

MATTHEW CARPENTER
Pro se
619 N. MONROE STREET
MEDIA, PA 19063
610-565-1331

53 pp

Petition For A Writ of Certiorari

1) Will the Supreme Court consider this case?

2) Why won't a Common Pleas court finish my case after two (2) attempts as (Judge Osborne) ordered? (Carpenter vs. Kleiner)

3) Why can't anyone understand the facts of the case?

4) Why does everyone think I seek relief under IDEA?

5) Can the Supreme Court step in and suggest or make a Common Pleas Judge (Judge Osborne) finish my case (Carpenter vs. Kleiner) Case # 98-13564 or take this case without anyone suggesting not to?

6) Did someone from CYS call or walk down the hall and tell Judge Osborne just after one day to make a decision on the Carpenter vs. Kleiner case?

7) Did someone from Pennell Elementary call Judge Osborne and tell her to stop my case because I asked the school to re-evaluate my daughter and they said no?

8) Do the lawyers or judges understand I had two (2) custody lawyers for two (2) years, a criminal lawyer, a stand by lawyer appointed by a judge, and an educational lawyer and they all failed?

9) Can the Supreme Court handle decisions from lower courts that have been "fixed"?

10) Can this court stop the more than twenty (20) times that my cases have been fixed against me?

11) Do you know that both State Court and the United States District Court have so far departed from the accepted and usual course of judicial proceedings?

12) Do you also know that State Court departed from the law more than twenty (20) times and nobody cares?

13) Do you know a judge may make a rule or an ORDER but nobody follows them?

14) Do you know even a judge (Judge Osborne) makes an ORDER and she can't even follow her own ORDER? (2 times)

15) What is the sense of having court or court ORDERS when not many people follow them?

16) Isn't this enough for a call for an exercise of this Court's supervisory power?

17) Can someone please tell CYS that a judge has more authority than they have?

18) Did the laws just change in Media, Pennsylvania?

19) Do the judges in Media think that they are the Supreme Court?

20) Why after CYS found me "unfounded" do they not want me to see my children after 16 months?

21) Is it because someone told them not to?

22) Was this really something that was fixed against me?

23) What would it take to have CYS look into my complaints?

24) Why can't any report be openly discussed?

25) Why can't I see who made the report or see it at all?

26) Why after 4 years of complaining to CYS that my children have been beaten, tortured, mentally abused and they have done nothing?

27) When the mother took my daughter out of school for one (1) year, why didn't CYS want my daughter in school even after I asked them to put her back in school?

28) Would Tiffany's school problems have been eliminated if she didn't miss a whole year?

29) Did CYS make the right decisions for the last four (4) years?

30) Why would CYS allow a mother on drugs that got caught changing a prescription from 0 to 4 refills of high painkillers, keep the children?

31) Can CYS prove they did not do what I've said?

32) Why am I allowed to go to work after failing a physical?

33) Is it because I live in Media, a lawless town?

34) Is it because CYS realizes that the mother would not get child support?

35) Is it proper for CYS to disobey an ORDER from a judge, or is that just in Media?

36) Does anyone know that when I drew up these complaints an educational lawyer appointed by Honorable Judge DuBois guided me?

37) Doesn't the District Court see my course of action in Complaints 1 and 2?

38) Is there a court out there that would believe me that CYS has failed to do what I say?

39) Will anyone check, because I know CYS won't?

40) What court would believe that a judge (Osborne) failed to bring my case to a conclusion that she ordered, causing me to file against CYS? (May 15, 2002)

41) What laws in my case have been followed?

42) If the United States frees IRAQ, will it free Tiffany and Shannon from all of this?

43) Do you know I saw a Media policeman rough up a 17–year old boy for no reason and when it went before a judge, he got away with it?

44) Why did he say, "If my wife was in the courtroom, I would have gone to jail?"

45) Do you know the boy got in trouble and the policeman didn't?

46) Do you know I was going to tell the mother to go to CYS since the judge protected the policeman but I knew they weren't going to do anything at all?

47) Is there any justice outside of Media?

48) Does the Supreme Court believe in transcripts?

49) Do you know that most of my court documents do not match up with what happened in court?

50) Is it that difficult to look at transcripts and match what happened in court?

51) Do you know that the "Opinion" on Page 2 (bottom part) is completely wrong?

52) On the "Opinion", does that mean now or in the future that I can never have my complaints investigated?

53) Who's now going to protect my children?

54) Does this mean CYS can foul up an investigation on purpose and get away with it?

55) What is the purpose of Children and Youth Services?

56) Can they also use a conspiracy against a father with a mother and a state court?

57) What would be the sense to have an agency that is allowed to do this?

58) Are they above the law, or is this just in Media?

59) Does the mother have the right to have the allegations investigated?

60) Do you know they do?

61) Why is the mother allowed, but not I?

62) Do you know as of 9/11/02 the CYS lawyer has no idea where my children are?

A List of Parties

Matthew Carpenter
Pro se

Tiffany Carpenter
Shannon Carpenter
(My Children)

Judge Osborne
May 15, 2002, October 28, 2002 ORDER
Delaware County Court House
Media, PA
(State Court)

Children and Youth Services
Chester and Upper Darby Offices
Kathleen M. Ricciordi - Attorney

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The ones that Appellee's and Judges state are wrong. The Appellee's State Court, CYS created these problems from not doing their job since 1998.

The one's that they list do not apply. If there are other cases that have been fixed about twenty (20) times, then they can list them. They are trying to cover-up their mistakes. (A diversion)

Judge Osborne can't follow her own ORDER (twice) and CYS breaks the other ORDER she wrote up.

Review of such adjudications must be pursed in the State Appellate system and, if necessary, by way of review of the state's highest court in the United States Supreme Court. In re: Dict. Drugs 282.F 3rd-220 3rd Cir 2002.

The dates of judgment and ORDER to be reviewed are as follows:

Matthew Carpenter et, al.
vs.
Delaware County Children and Youth Services,
Case #02-3428.
March 4, 2003 and August 9, 23, 26, 2003. District Judge Honorable Jon E. Dubois, Third Circuit, Judges Nygaard, Greenburg, Cowen

Carpenter
vs.
Kleiner,
DCCP #98-13564.
Judge Osborne - May 15, 2002,
October 28, 2002 (State Court) (Never finished)

Matthew Carpenter
vs.
Pennell School District Elementary Unit.
March 3, 2003 and August 9, 23, 26, 2003.
Honorable Jon E. Dubois Third Circuit, Judges Greenburg, Cowen, Nygaard.

Jurisdiction

This Court has jurisdiction under 28 U.S.C. - 21016 Section 1331, in that claims are under the laws of the United States. There is such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this court.

The reasons are set forth: Media, PA departed from the law. This land is lawless. Judges, policemen, lawyers, have made Media lawless, and they don't even protect disabled children. A judge makes an ORDER CYS, mother or even that same judge can't even follow and nobody cares. They have so far departed from most all laws and from the accepted and usual course of judicial proceedings, to call for and exercise this Court's supervisory power.

Review of such adjudications must be pursed in the State Appellate system and, if necessary, by way of review of the state's highest court in the United States Supreme Court. In re: Dict. Drugs 282.F 3rd-220 3rd Cir 2002.

Statement Under Rule 14

The mother of my children, judges, a policeman, Media and Children and Youth Services have disregarded the law. They can't enforce the law, stick by the law, or even follow a Court Order. CYS, a Master and a mother have caused a conspiracy against me and CYS disobeyed a judge's ORDER, even to go as far as when found "unfounded" in a case, when the mother accused me of hurting my daughter, they still will not let me see my daughters again. Then the same Media policeman physically abused a 17-year old boy right in front of me, and when it went to court, the judge protected the policeman. I would have told the mother to contact CYS but they will do nothing anyway. This should call for such imperative public importance as to justify deviation from normal appellate practice to require immediate determination in this Court that Media is lawless.

The Setting

This case started with the mother's boyfriend "Bill" badly beating my daughter Tiffany, who has disabilities. Then I filed a big complaint with CYS and that brought very little help. Then, their mother kidnapped the children until an FBI agent gave me a tip where she was. I went looking for the children and when I found them their mother charged me with stalking and harassment. Then I followed up with many court appearances, mostly all of them fixed. Almost every week I had to complain to CYS of abuse on my children. I have made many complaints to CYS and nothing was done to correct the problem. On one occasion my daughter Tiffany was abused right outside the Courthouse in front of me. I went back into court (on recess break) and the Master agreed with me that she was abused but nothing happened to the woman who did it and nothing came out of it (on transcripts). That is why I had to pose the question about transcripts. Even a psychologist agrees (Dr. Larry More). From then on I made many court appearances, which were against me, most of them "fixed", and a conspiracy. CYS found out that the courts protect CYS and CYS protects the courts. I hope Supreme Court does not work that way.

January 10, 2001 I went to Pennell Elementary to see if I could get my daughter reevaluated. They said, "No."

January 29, 2001 their mother and her lawyer did not show up for court. The next court date was March 7, 2001. The Master and the children's mother caused a conspiracy against me or it was fixed and I lost legal custody and very bad things were alleged against me. The transcripts didn't match up with what happened in court that day.

Their mother was going to lose her children if she didn't do something. After that, their mother, the State and CYS must have realized that no one could stop them.

On November 19, 2001 their mother (Kathy Kliener) filed a Protection From Abuse stating that I hurt my daughter, Shannon, which I never did. Their mother fabricated a story to CYS. Then CYS failed to get the investigation less than thirty (30) days (their rule). They told me to talk to another CYS office and when I went there they sent me right back to the same office. A run-around story. CYS finally found me "unfounded" on December 20, 2002, which didn't matter because I caught their lies and cover-ups.

On December 31, 2002 I went to the Courthouse and Judge Osborne made an ORDER that said, "In light of the Prohibition therein against any contact between Matthew Carpenter and his minor children pending completion of the Children and Youth Services investigation, said investigation now appearing complete, the office of the Court Administrator is defected to place this matter before Master Urso as quickly as possible consistent with other previously scheduled matters before their mother.

On February 1, 2002 Court was set on this date. Their mother and CYS worker from another office, which had nothing to do with this matter, came into court suggesting to the Master that Matthew Carpenter was never to see his children again. The CYS worker did not have their lawyer present. The Master did not allow my evidence, did not allow me to object and just let CYS take over court like they owned it.

CYS, the children's mother and Master can get away with this since they must know that no judge in Media will care what they do.

After the May 15, 2002 Court ORDER that Judge Osborne wrote, which never took place, I decided to file a complaint against the State of PA in Federal Court because Judge Osborne did not follow her own ORDER. During that time, the judge made another ORDER on October 28, 2002 that my case was coming to a close. Before October 28, 2002 came, I filed a large complaint against the State of PA. On that day in Court with Judge Osborne we talked about my complaints. On the complaint she was involved with she said, "Your complaint against the State was dismissed. The attorney must have told her (meaning they were protecting one another). After one day of testimony the judge, on her own, ended without making any decisions or ORDERS. Nothing.

I can't take this case any higher, except Supreme Court. Someone must have told the judge to stop the case after only one day of testimony. It could have been CYS, Pennell School or Judge Osborne's attorney. This should call for such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this court and this has also departed from the accepted and usual course of judicial proceedings.

Argument

No one yet understands the case or how it came about. Judges protect one another and CYS. Media is lawless. Judge Osborne makes an Order; no one follows it or, she can't even follow her own ORDER (twice). CYS has not done their job correctly since 1991 and since I made a big complaint in July 1998. They should have been fully responsible since 1998. To break a judge's ORDER and not allow me to see my children for over one and a half years after clearing my name (unfounded) must put CYS above the law. After four (4) years of abuse of my children from their mother and her boyfriends, I guess CYS has been allowed to get away with that and not have to explain all the cover-ups. I hope some day in the future I will be able to show my evidence of the "unfounded" letter to a judge without CYS in the room preventing me from seeing my children plus Judge Osborne's ORDER allowing me to bring up all things that happen to my children, along with the fabricated story that prevented me from seeing my children. Perhaps someone besides CYS could just ask the children what really happened.

Matthew Carpenter 5-24-03

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 02-3428

MATTHEW CARPENTER; TIFFANY CARPENTER;
SHANNON CARPENTER

v.

CHILDREN AND YOUTH SERVICES, UPPER DARBY
OFFICE; CHILDREN AND YOUTH SERVICES, CHESTER
OFFICE

Matthew Carpenter,

Appellant

On Appeal From the United States District Court
For the Eastern District of Pennsylvania
(D.C. Civ. No. 02-cv-00625)
District Judge: Honorable Jan E. DuBois

Submitted Under Third Circuit LAR 34.1 (a)
FEBRUARY 18, 2003

Before: NYGAARD, GREENBERG AND COWEN,
Circuit Judges.

JUDGMENT

This cause came on to be heard on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1 (a). On consideration whereof, it is now here

ORDERED AND ADJUDGED by this court that the judgment of the district court entered August 26, 2002, be and the same is hereby affirmed. Costs taxed against the appellant. All of the above in accordance with the opinion of this Court.

ATTEST:

"s/Marcia M. Waldron"

Clerk

DATED: March 4, 2003

APPENDIX B

UNREPORTED- NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 02-3428

MATTHEW CARPENTER; TIFFANY CARPENTER; SHANNON CARPENTER

v.

CHILDREN AND YOUTH SERVICES, UPPER DARBY OFFICE; CHILDREN AND YOUTH SERVICES, CHESTER OFFICE

Matthew Carpenter,

Appellant

On Appeal From the United States District Court
For the Eastern District of Pennsylvania
(D.C. Civ. No. 02-cv-00625)
District Judge: Honorable Jan E. DuBois

Submitted Under Third Circuit LAR 34.1 (a)
FEBRUARY 18, 2003

Before:
NYGAARD, GREENBERG AND COWEN, Circuit Judges.

(Filed: March 4, 2003)

OPINION

PER CURIAM

Matthew Carpenter appeals the District Court's order granting appellee's motion to dismiss. The details of Carpenter's claims and the procedural history of the case are well known to the parties and need not be repeated here. In short, Carpenter alleged that appellee Children and Youth Services (CYS) violated his daughters' rights in several ways, including failing to investigate Carpenter's claims of abuse and failing to recognize his children's learning disabilities. The District Court granted appellee's motion to dismiss. Carpenter filed a motion for reconsideration which the District Court denied. Carpenter then filed a timely notice of appeal.

We exercise plenary review over the District Court's order granting appellee's motion to dismiss. Gallo v. City of Philadelphia, 161 F.3d 217, 221 (3d Cir. 1998). When reviewing a complaint under Rule 12(b)(6), the Court must accept the allegations in the complaint as tree. Hishon v. King & Spalding, 467 U.S. 69, 73 (1984) The Court should not dismiss a complaint unless it is clear that no relief could granted under any set of facts that could be proved. Id. A Complaint by a pro se litigant is held to less stringent standards than one prepared by a lawyer. Haines v. Kerner, 404 U.S. 519, 520 (1972).

We agree with the District Court that Carpenter has not stated a cause of action. Parents do not have substantive rights under the IDEA. Collinsgru v. Palmyra Bd. of Educ., 161 F.3d 225, 236-7 (3d Cir. 1998). To the extent that Carpenter seeks to vindicate his daughters' rights, a non-lawyer parent may not represent his children in federal court. Osei-Afriyie v. Medical College of Pa., 937

F.2d 876, 883 (3d Cir. 1991). Carpenter does not have a right to have his allegations of child abuse investigated by CYS. See McComb v. Wambuagh, 934 F.2d 474, 482-83 (3d Cir. 1991); DeShaney v. Winnebago County Dept of Social Servs., 489 U.S. 189, 197 (1989) ("[A] State's failure to protect an individual against private violence simply does not constitute a violation of the Due Process Clause.").

To the extent that Carpenter seeks review of the state court orders concerning custody, we agree with the District Court that the federal courts do not have subject-matter jurisdiction over such claims. Under the Rooker-Feldman doctrine, lower federal courts cannot entertain constitutional claims that are inextricably intertwined with a state court adjudication. See FOCUS v. Allegheny County Court of Common Pleas, 75 F.3d 834, 840 (3d Cir. 1996). A District Court does not have jurisdiction over "challenges to state-court decisions in particular cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional." See District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 486 (1983). To the extent that the state proceedings are ongoing, abstention would be appropriate under the doctrine of Younger v. Harris, 401 U.S. 37 (1971).

For the above reasons, as well as those set forth by the District Court in its memorandum, we will affirm the District Court's August 26, 2002, order.

APPENDEX C

Answer to Penn Delco School District

(Pennell Elementary) Karl Romonberger Letter and

Carpenter vs. Children & Youth Services

U.S.D.C. No-02 CU-625 **Today's date is** 7/10/02

Dear Judge DuBois:

I would like to thank Honorable Judge Jon DuBois for asking both defendants to look into the case. As you were right about one thing, I was very hurt on June 10th telephone conversation. As you read Pennell's letter from Karl Romonberger R.E. Carpenter vs. Penn-Delco School District U.S.D.C.E.D PA C:U:A No. 01-6270. There is a BIG problem or mistake made. Tiffany, my daughter, has been cheated for many years of schooling:

1) The mother took Tiffany out of school for about a year. (1998-1999)
2) Upper Darby did an evaluation and I.E.P. on Tiffany that was copied from 1998 and sloppy, incomplete.
3) Then Penn-Delco took the wrong results from Upper Darby (under findings part 4 (page 3) of Exhibits) which if you relate back to Penn-Delco's letter addressed to you, you will see how many problems Tiffany has. Meaning that Tiffany was probably worse back in 2000 than she is now. After receiving all reports on Tiffany, Penn Delco still did not readjust Tiffany to where Tiffany needed to be. Penn

Delco did not know all of Tiffany's problems until about 12/10/00 when I saw Penn-Delco psychologist and gave her 15 pages of her previous I.E.P. evaluation and a blue print of Tiffany's progress since 1998. Mrs. McKinny did not know how to make a copy of this blue print but she did make copies of her reports. After 3 phone calls to Karl, I still don't think he understands, and you say I can't represent without a lawyer. My guess is you won't understand. If you can't find the time to at least look at this case (I still remember you dismissed this case) bill me for the time looking to help Tiffany. I have already: Defendant's failure to read and examine Carpenter vs. Penn-Delco (answer) (my answer to Penn-Delco) before telephone conference (you said it was in the building but not in front of you) and my "memorandum" dated May 3, 2002.

Then Upper Darby reported Tiffany had trouble learning in a small group of 4. Pennell must have not read that part. They had Tiffany in a classroom size of 19 for 2000-2001 and 21 for the year 2001-2002. How could this child learn anything? Pennell still failed to state what grade level Tiffany is learning at. When I went to Pennell on 1-10-01 the teacher wrote "K" for Kindergarten but she was in First grade. I have been working on my case for about 3 ½ to 4 years meaning I have just one big one to focus on. How many cases have you been on in the last 3 ½ to 4 years?

Moving along to the CYS letter dated July 1, 2002. As I read it, I can't find anything in the CYS letter that is true. Did you know because of CYS I

haven't seen by children in 35 weeks. Let me explain: CYS and Kathy (Tiffany and Shannon's mother) worked up a scheme to take my children away from me on purpose, after knowing that Kathy made 4 or 5 unsubstantiated reports of child abuse on me around November 7, 2001. Since then CYS must think I don't care about them and don't want to see them. Plus CYS doesn't care if they disobey a judge's order. Judge Kelly wrote an Order that states, "the concerns raised by Instant Emergency Petition **SHALL** be heard by the Custody Master on November 30, 2001 at 10:00." On that day no concerns were ever heard, the Master yelled at my witness (Kelly Carpenter) and told her to sit back down when I tried to call her up to the bench. Master did not look at my evidence, did not allow me to object. (And you still think CYS had nothing to do with this.)

Then Judge Osborne wrote an Order that states: "In light of the prohibition therein against any contact between Matthew Carpenter and his minor children pending completion of his children's Children & Youth Services investigation, and said investigation now appearing complete, the Office of the Court Administrator is directed to place this matter before Master Urso as quickly as possible **CONSISTENT WITH THE OTHER PREVIOUSLY MATTERS BEFORE THE MASTER."**

This Order was in court February 1, 2002. Again Kathy and CYS worker (Dori Davis) who was from a different CYS office that had nothing to do with this matter, came into court on February 1, 2002, disobeys Judge Osborne's Order and changes the Master's thought process of why we were there, that being to set up new custody arrangement after CYS just found me "unfounded" and suggests to the Master that Matt Carpenter never to see his kids again. It worked, I haven't

seen them in 35 weeks. Again, I can't believe you still think CYS had nothing to do with the May 15, 2002 court date.

Note CYS has an office right in the Courthouse. How can anybody believe that CYS has a limited role in this case after about 50 of my complaints. One being Carpenter vs. Children & Youth Services U.S.D.C. No. 02-CU-625 and even Dr. More in many reports stating that CYS is no help what so ever.

How much evidence do I need? I did not make up all those things that happened to my children. I would not risk losing them over fake claims. CYS makes a 10/5/98 report and most of that report they can't even do: S.C.O.H. services – wrap around services – a nanny starting in 10/5/98. CYS was fully involved even before custody got started. They state that my case is adjourned. How did they know that? I don't even know that and I have been calling Judge's Chambers to find out a new date. When I called last summer help was in and no new date. CYS must have got it adjourned and you still do believe me about CYS might have called the Judge.

Something should happen to CYS for purposely making sure I don't get to see my children. I know why both defendants are still lying. Hon. Judge DuBois dismissed my case, and they got away with lying to a Federal Judge. Is this what happens in Federal Court, I sure would like to find out. That means I have another Defendant's failure to prosecute for lying even though Judge DuBois did me a favor by asking both defendants to look in the case. If CYS or (state) back in 1998 would have done a psychological evaluation it would have certainly helped Tiffany with her school situation. Also on November 30, 2001 (state) handed over jurisdiction to CYS

and they did nothing with jurisdiction, (state) never regained jurisdiction back, because on April 23, 2002 they failed to fill in custody arrangements (Legal custody was never awarded to mother or father). All of this, the (state) just lost jurisdiction. Now U.S. District Court has jurisdiction. This time, can you read my answer for Penn Delco and spend time reading my "memorandum."

On the issue of the children's needs: Penn-Delco couldn't provide the needs for Tiffany for the year 2000-2001 because they copied from Upper Darby reports that were wrong from 1999. How could the mother fill the needs of the children when the whole school couldn't even do that right (the ones teaching Tiffany including the principal and the psychologist)? Do you know if CYS would have done their job in July of 1998 when I made a big complaint about my children getting abused I would have gotten them back and never had to try to get custody of them? This would be over about August of 1998. CYS is getting away with so much. Am I the only one who can detect all of this and I am not even a lawyer?

As I remember, you said to CYS: "Your suppose to be an agency that protects the children, find out what you can do." The problem with that is that CYS had an inexperienced worker that didn't know much to start with. Secondly, when I made my complaints that the children weren't in school and were being abused by the mother and boyfriends, CYS representative Dori Davis couldn't locate the mother. My brother had to call CYS representative Dori Davis and tell her where my children were. Plus, when she did finally find my children, the mother dodged CYS making it impossible to follow up on my many complaints. For a four-month stretch, I had one or two complaints a week. It built up so much that Dori

Davis probably forgot more than half of what I said. Then the mother had to lie in order to keep the children with her, given the fact that Tiffany's social security money (five hundred dollars a month paid rent for the mother), plus support money (400 a month). Which I still pay but cannot see my children because CYS and the mother fabricated an injury that I hurt my daughter Shannon, which turned out to be 35 weeks so far, after CYS found me "unfounded" over six months ago. Just that alone should give you some indication that CYS doesn't have anything right. Someone needs to investigate this case from 7/98 to present. For CYS making lots of effect by deliberately taking my children away from me for thirty-five weeks, they should be forced to serve some type of discipline for their actions. That 35 weeks could even go longer than that. So far, the state has not even disciplined the mother and so for my expectations for CYS, they will do the same. I am pretty sure it is affecting the children too. Unless the mother is doing what she always does with my children, brainwashing (mental abuse). She did it with me and my son Mike; and it is still there after seven years. Another issue CYS is trying to avoid. Isn't it supposed to be in the best interests of the children?

Respectfully Submitted,

"s/Matthew Carpenter"

APPENDIX D

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MATTHEW CARPENTER,

Plaintiff, CIVIL ACTION

v.

PENNELL SCHOOL DISTRICT ELEMENTARY UNIT, NO. 01-6270

Defendants.

MATTHEW CARPENTER, TIFFANY CARPENTER, and SHANNON CARPENTER,

Plaintiffs, CIVIL ACTION

V.

CHILDREN & YOUTH SERVICES,

Defendants. NO. 02-625

DuBOIS, J. **August 9, 2002**

MEMORANDUM

I. INTRODUCTION.

Presently before the Court are Motions to Dismiss the Complaints filed in each of these related cases. Plaintiff Matthew Carpenter, proceeding pro se, filed separate suits against the Penn Delco School District ("Penn Delco" or "District"),[1] and Delaware County Children and Youth Services ("CYS") In the Penn Delco case, plaintiff asserts claims under the Individuals with Disabilities Education Act, 20 U. S.C. § 1401, et seq. ("IDEA"), on behalf of himself and his daughter, Tiffany Carpenter, a student at the Pennell Elementary School, seeking both money damages and injunctive relief. In the CYS case, plaintiff asserts claims under IDEA on behalf of himself and both of his daughters, Tiffany and Shannon Carpenter, seeking money damages and injunctive relief, including custody of his daughters. In addition, plaintiff seeks relief that may be available only under 42 USC § 1983 and the Rehabilitation Act, 29 U.S.C. § 794, although he does not mention those statutes in his Complaints. For the reasons set forth below, the Motion to Dismiss both cases will be granted.

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[1] Plaintiff named "Pennell School District Elementary Unit" as the defendant in the first suit, No. 01-6270. The real party in interest is Penn Delco School District.

II BACKGROUND

Plaintiff has two daughters, Shannon and Tiffany Carpenter. Kathy Kleiner, the mother of the children, has sole legal custody of the children as a result of the Court of Common Pleas of Delaware County's orders dated March 7, 2001, and November 30, 2001. Both of plaintiff's Complaints relate to his concerns about the welfare of his children.

In the Penn Delco suit, plaintiff filed a pro se Complaint against "Pennell Elementary School," the school where Tiffany Carpenter is enrolled, on December 12, 2001, and moved to proceed in forma pauperis. On December 27, 2001, this Court, by Memorandum and Order, granted the motion to proceed in forma pauperis, but dismissed the Complaint without prejudice on the ground that it was legally frivolous. See Carpenter v. Pennell Sch. Dist. Elem. Unit, No. 01-6270, 2001 WL 1667566 (E.D. Pa. Dec. 27, 2001). Plaintiff filed the current pro se Amended Complaint on February 6, 2002. The District filed a Motion to Dismiss on May 13, 2002.

Plaintiff' s daughter, Tiffany Carpenter, is a child with special needs, of which needs the District is aware. In the past, plaintiff has been to the school and participated in matters related to Tiffany's education. Plaintiff alleges that on January 10, 2001, he requested that the District evaluate Tiffany, and that the District declined to conduct such an evaluation at that time.[2]

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[2] In correspondence to the Court, the District reported that, in 2001, it adopted the evaluation of Tiffany Carpenter performed by her former school district, Upper Darby School District, and that it re-evaluated Tiffany Carpenter in January 2002. The parties' dispute as to the District conducted the proper evaluations does not affect the Court's disposition of the pending motion

In his Complaint, plaintiff sets forth an exhaustive list of alleged "failures" on the part of the District with respect to Tiffany's education. This list includes dozens of alleged violations under IDEA and Pennsylvania statutory law and regulations.

Plaintiff seeks relief against the District in the form of an immediate re-evaluation of Tiffany. He also seeks compensatory education, damages, "wrap-around" services, an educational placement that can meet Tiffany's needs, an investigation with CYS in conjunction with the District, a declaratory judgment that defendant violated plaintiff's rights, and a hearing before a Grand Jury.

In the suit against CYS, plaintiff filed his Complaint on February 6, 2002, the same date on which he filed his Amended Complaint against the District. On April 3, 2002, CYS filed a Motion to Dismiss. Plaintiff's claim against CYS includes at least seven different categories of allegations of CYS's failures to act, including its (1) failure to remove plaintiff' s children from the custody of their mother; (2) failure to locate the children when their mother relocated; (3) failure to investigate allegations of abuse; (4) failure to act on plaintiff's complaints; (5) failure to transport the children for visitation; (6) failure to prevent mental abuse of the children; (7) and failure to investigate Tiffany's "school situation."

Plaintiff seeks the following forms of relief in the CYS suit: (1) this Court's assumption of jurisdiction over the custody matter; (2) a declaratory judgment stating that CYS violated plaintiff' s rights; (3) "wrap-around" services for Tiffany and Shannon; (4) placement of this case before a Grand Jury; (5) custody of Tiffany and Shannon; and (6) $25 million.

Because plaintiff's allegations in both cases raise similar issues, and because plaintiff is proceeding pro se, the Court held a telephone conference with all parties on

June 10, 2002. During the conference, the Court explained the applicable law to pro se plaintiff and told him that neither of his Complaints states a cause of action. In addition, in an effort to facilitate a resolution of these cases, the Court requested that counsel for each defendant look into plaintiff' s concerns with respect to his Tiffany's education and the custody matter and report to the Court and plaintiff. Both defendants complied with the Court's request,[3] but the parties have been unable to resolve their differences.

Accordingly, the Court will now address the issues raised in the pending motions.

III DISCUSSION

A. PLAINTIFF'S CLAIMS AGAINST THE DISTRICT AND CYS UNDER IDEA

Plaintiff may not seek relief under IDEA for several reasons. First, plaintiff may not bring suit on his own behalf under IDEA because, as the Third Circuit held in Collinsgru v. Palmyra Bd. of Educ., 161 F.3d 225, 227 (1998), he does not have substantive rights under that Act. In Collinsgru, the Third Circuit discussed at length the consideration of parental rights under IDEA, and held that although IDEA provides parents with some individual procedural rights, "Congress's decision to endow parents with these procedural rights should not be read, under the language of the IDEA, to imply that parents also possess the same underlying substantive rights that their children possess." Id. at 227. Furthermore, the Collinsgru court refused to read joint parental substantive rights into IDEA, holding, "[b]ecause neither the statutory language nor the legislative history clearly implies that Congress intended

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[3] The Court extends its appreciation to defense counsel for proceeding in this manner

parents to have joint rights with their children under the IDEA, we will not read joint rights into the Act." Id. at 235. Thus, plaintiff may not assert any of his own - or joint - substantive rights under IDEA.

Second, plaintiff may not prosecute claims on behalf of his children. The Third Circuit has held that pro se non-lawyer parents may not represent their children in federal proceedings. See Collinsgru, 161 F.3d at 231 (citing Osei-Afriyie v. Medical College of Pa., 937 F.2d 876, 883 (3d Cir. 1991)) ("It is...well-established in this Circuit that the right to proceed pro se in federal court does not give non-lawyer parents the right to represent their children in proceedings before a federal court."). As the Third Circuit has explained, the purpose of this rule is to protect the interests of the children: "[i]t goes without saying that it is not in the interest of minors or incompetents that they be represented by non-attorneys. Where they have claims that require adjudication, they are entitled to trained legal assistance so their rights may be fully protected." Osei-Afriyie, 937 F.2d at 883 (citing Meeker v. Kercher 782 F.2d 153, 154 (10th Cir. 1986)).

Plaintiff may not bring these suits against the defendants on behalf of his children for another reason: he is not the legal custodian of his daughters. Kleiner, the girls' mother, maintains sole legal and physical custody of both children. Under IDEA, only a parent may bring suit on behalf of a child. IDEA defines a "parent" to include either a legal guardian or a surrogate parent. 20 U.S.C. § 1401(19). The legal definition of parenthood under IDEA incorporates state law. "[N]othing in the IDEA overrides states' allocation of authority as part of a custody determination." Navin v. Park Ridge Sch. Dist. 64, 270 F.3d 1147, 1149 (7th Cir. 2001). In this case, the state court

orders giving Kleiner sole custody extinguished all of plaintiff's legal rights as a parent under IDEA.[4] Plaintiff therefore has no legal rights as a parent under IDEA.

B. PLAINTIFF'S REMAINING CLAIMS AGAINST CHILDREN AND YOUTH SERVICES

To the extent plaintiff seeks relief under § 1983 or the Rehabilitation Act, he may not do so because the relief sought by plaintiff is dependent, in one form or another, upon a reversal or modification of the state court's custody decree. First, the Court has no jurisdiction over a custody matter, which is purely a state law issue. Second, because plaintiff seeks reversal of the custody decree, the Rooker-Feldman doctrine bars the Court from considering this request. "That doctrine prevents a federal court from exercising jurisdiction 'when in order to grant the federal plaintiff the relief sought, the federal court must determine that [a] state court judgment was erroneously entered or must take action that would render that judgment ineffectual.'" Southeastern Pa. Transp. Auth. v. Pa. Pub. Util. Comm'n-, 2002 WL 1485267, at * 13 (ED. Pa. July 12, 2002) (quoting FOCUS v. Allegheny County Court of Common Pleas-, 75 F.3d 834, 840 (3d Cir. 1996)).

IV. CONCLUSION

For the foregoing reasons, the Court will grant the motions of both defendant Penn Delco School District and defendant Children and Youth Services to dismiss the Complaints and enter judgment in favor of defendants and against plaintiff.

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[4] The Court of Common Pleas' custody order directs that there be "no contact of any kind between father & children." District's Ex. B.

APPENDIX E

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MATTHEW CARPENTER,

Plaintiff, CIVIL ACTION

v.

PENNELL SCHOOL DISTRICT ELEMENTARY UNIT, NO. 01-6270

Defendants.

MATTHEW CARPENTER, TIFFANY CARPENTER, and SHANNON CARPENTER,

Plaintiffs, CIVIL ACTION

v.

CHILDREN & YOUTH SERVICES, NO. 02-625

Defendants.

ORDER

AND NOW this 9th day of August, 2002, upon consideration of the Motion to Dismiss Amended Complaint of Defendant Penn Delco School District, incorrectly named Pennell School District Elementary Unit No. 01-6270, Document No. 10, filed May 13, 2002); defendant Children and Youth Services' Motion to Dismiss Plaintiffs' Complaint (No. 02-625, Document No. 6, filed April 3, 2002); and related filings, for the reasons stated in the attached Memorandum, **IT IS ORDERED,** as follows:

1. The Motion to Dismiss Amended Complaint of Penn Delco School District, incorrectly named Pennell School District Elementary Unit (No. 01-6270, Document No. 10, filed May 13, 2002) is **GRANTED** and plaintiff's Amended Complaint (No. 01-6270, Document No. 4, filed February 6, 2002) is **DISMISSED WITH PREJUDICE**; and **JUDGMENT IS ENTERED** in **FAVOR** of defendant, Penn Delco School District, incorrectly named Pennell School District Elementary Unit, and **AGAINST** plaintiff, Matthew Carpenter;

2. Defendant Children and Youth Services' Motion to Dismiss Plaintiffs' Complaint (No. 02-625, Document No. 6, filed April 3, 2002) is **GRANTED** and plaintiff's Complaint (No. 02-625, Document No. 1, filed February 6, 2002) is **DISMISSED WITH PREJUDICE**; and **JUDGMENT IS ENTERED** in **FAVOR** of defendant, Children and Youth Services, and **AGAINST** plaintiffs, Matthew Carpenter, Tiffany Carpenter, and Shannon Carpenter.

BY THE COURT:

"s/Jan E. DuBois"
JAN E. DUBOIS, J.

APPENDIX F

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MATTHEW CARPENTER,

Plaintiff, CIVIL ACTION

v.

PENNELL SCHOOL DISTRICT ELEMENTARY UNIT, NO. 01-6270

Defendants.

MATTHEW CARPENTER, TIFFANY CARPENTER, and SHANNON CARPENTER,

Plaintiffs, CIVIL ACTION

v.

CHILDREN & YOUTH SERVICES, NO. 02-625

Defendants.

ORDER

AND NOW this 23rd day of August, 2002, the Court having received on August 22, 2002, a document entitled "Amended Memorandum" signed by plaintiff, Matthew Carpenter,[1] which submission the Court will treat as a Motion for Reconsideration of this Court's Memorandum and Order dated August 9, 2002, **IT IS ORDERED** that the "Amended Memorandum" submitted by plaintiff, Matthew Carpenter, treated as a Motion for Reconsideration of this Court's Memorandum and Order dated August 9, 2002, is **DENIED** for the reason that the Court in its Memorandum and Order of August 9, 2002, considered all of the issues raised in the "Amended Memorandum."[2]

BY THE COURT:

"s/Jan E. DuBois"

JAN E. DUBOIS, J.

[1] The original of the "Amended Memorandum" shall be docketed.

[2] Plaintiff, Matthew Carpenter, is advised that he has a right to appeal the denial of the relief sought in his "Amended Memorandum," treated as a Motion for Reconsideration. In the event he chooses to appeal, he must file a Notice of Appeal in this Court within thirty (30) days of the date of this Order. In addition, he must comply with all of the requirements of the United States Court of Appeals for the Third Circuit with respect to the filing of appeals.

APPENDIX G

December 6, 1999

Dave Sanderson, Principal
Upper Darby School District, Kindergarten Center

RE: Tiffany Carpenter dob: *10/7/92*

Dear Mr. Sanderson,

At my suggestion, my client Matthew Carpenter gave permission for me to supply you information regarding his daughter (the above student) that may be of use to you. I was struck by the paucity of psycho-social information in the recent IEP reevaluation (10/14/99), as I think this area has a great bearing on the possibility of Tiffany making effective use of the educational accommodations you are making available to her.

My client has informed me that he has been in contact with you on occasion regarding Tiffany (as well as about her sister); and I therefore assume that you are well aware of the extreme divisiveness between her separated parents. This in itself is of significance in its contribution to behavioral and learning difficulties that are observed at school, and even more importantly in the likelihood of outside-school compliance and support for learning.

Disrupted and outright non-compliance with court-ordered visitation, charges of harassment, frequent court appearances, involvement of both parents with CYS Protective services (in the past as well as present), and so on, are all the order of the day with this family and around this student.

Obviously, since I see only the father in this case, I have only his perspective and reports on which to base my provisional conclusions in many areas.

Nevertheless, if even a part of his reports are accurate, there is grave cause for concern and the involvement of CPS (Dori Davis, social worker) is well warranted. My client reports that his daughters come to him unkempt, frequently with urine-soaked or feces smeared underwear, fearful of talking to father about events at mother's home. (He reports that when with him, Tiffany often reacts to being reprimanded or corrected by tears and urinating.) He reports that needed medicines and clothes needed by Tiffany often do not accompany her on visitation. In short, Mr. Carpenter accuses the girls' mother of criminal neglect, mistreatment, and lack of proper care.

As you might imagine, given the extremely adversarial nature of the parental relationship in the current climate of legal caution by service providers of all kinds, Mr. Carpenter has great difficulty taking his children for medical treatment and reviewing their medial history and treatment information. He has experienced what appears to me to be very prejudicial and dismissive attitudes from the court and legal system in his attempt to redress his concerns. Dealing with CYS protective services has also brought innumerable frustrations, no substantive results, and in my own view, few benefits to the children. Similarly, my impression is that in involving Mr. Carpenter in the educational process, you are taking a step that is proper, but potential problematic since it is (likely) against the mother's wishes.

My feeling is that you will not find Mr. Carpenter himself a problem, but he is persistent and is seriously interested in his daughters' education and welfare in general. I have

known Mr. Carpenter for approximately 1½ years. His intent in coming to this agency was to resolve his upset over the breakup of his relationship with the girls' mother; but it has since
proceeded to his learning to deal with his own disrupted life situation as well as his girls' special needs effectively as well as with the severely disrupted situations of visitation, child support, and ultimately, their welfare.

Although Mr. Carpenter's own mental status was an issue brought to the court by the girls' mother, and inadequately assessed in the (as of yet incomplete) custody evaluation, I can professionally assure you that this is a non-issue, though Mr. Carpenter's life is not without its problems (such as extended family conflict, appropriate housing, and some parenting and other life-skill deficits). The latter I know intimately through my contact with him - our work together addresses them directly. While I cannot assess whether the father would be the "better" custodial parent as he claims, since I do not know the mother at all, and I am well aware of difficulties that Mr. Carpenter would have to face if he did have full/substantial custody of the children.

However, I can say with confidence that, from the very beginning, Mr. Carpenter's concern about the children's welfare has been markedly evident, and this has been consistent throughout our contact. In fact, the welfare of the children, and what he can do for them from his weak position, has been the total content of many counseling sessions. Over the year and a half, his concern has proven to be consistent, sincere, and genuine.

I am writing this in an attempt to give you some sense of how to take Mr. Carpenter's contact with you, as well as to provide a certain amount of background information

relevant to the children. It is my guess that you already see a number of the problems I have referred to in their effect on Tiffany's (poorly-controlled) behavior in school, emotional and social immaturity, appearance, self-care habits, her attendance, perhaps physical health issues and so on. While a number of these deficits can be attributed to neurological and organic causes, a number of them, - and additional aspects, such as the severity of some deficits, any less-than-expected-progress with them, the difficulty of developing adequate management of the difficulties and deficits that are present - are directly attributable to the seriously disrupted psycho-social circumstances within which she lives, the attitudes and interpersonal treatment to which she is exposed, and so on. Behavioral management in the school, as well as the understanding of what is occurring and planning for future school participation are dependent to a degree on some understanding of these factors.

Since my client has given me permission to discuss anything he has told me which might benefit the children, if you have any questions (about him, his views of mother, of children's educational needs, his relationship with them, etc.), please do not hesitate to contact me, as I would be glad to provide what might be of use to you in behalf of the children.

Sincerely,

D. Laurence More, M.Ed.
PA licensed psychologist
PRA staff therapist

APPENDIX H

COUNTY OF DELAWARE
DEPARTMENT OF HUMAN SERVICES

OFFICE OF
CHILDREN & YOUTH SERVICES

December 20, 2001

Matthew Carpenter
619 North Monroe Street
Media, PA 19063

Re: Shannon Carpenter
ChildLine # 23-18963

Dear Mr. Carpenter,

The Child Protective Services investigation conducted by this agency is now complete. A status determination of "Unfounded" has been reached on the report of abuse of the above named child and filed with ChildLine, the Statewide Child Abuse Registry. An Unfounded report means that the allegations were not substantiated as defined by the Child Protective Services Law.
The report of suspected child abuse will be maintained in the pending complaint file at ChildLine for one year after the date the report is received by ChildLine. ChildLine will expunge the report within 120 days of the end of the one-year period. Children and Youth Services also will expunge the report from our agency files because ongoing services will not be provided by the agency.
Your cooperation during the investigation has been greatly appreciated.

Sincerely,
"s/ Susan Fuller, BA"
Susan Fuller BA
Intake Caseworker

APPENDIX I

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

No. 98-13564

Matthew Carpenter
Vs.
Kathy Kleiner **IN CUSTODY**

ORDER

AND NOW, this 31st day of December, 2001, upon consideration of the Emergency Petition for Special Relief in the Nature of Custody filed on this date by Matthew Carpenter together with the documents attached to that Petition, it is hereby ORDERED AND DECREED that the Office of the Court Administrator shall relist the above-captioned custody action before Master Francis Urso pursuant to the request of that Master contained in Paragraph B of the Temporary Custody Order recommended by Master Urso on November 30th, 2001.

In light of the prohibition therein against any contact between Matthew Carpenter and his minor children pending completion of the Children and Youth Services investigation, and said investigation now appearing complete, the Office of the Court Administrator is directed to place this matter before Master Urso as quickly as possible consistent with the other previously scheduled matters before the Master.

BY THE COURT:
"s/ Ann Osborne"
ANN OSBORNE, JUDGE

APPENDIX I

COURT OF COMMON PLEAS

DELAWARE COUNTY
THIRTY-SECOND JUDICIAL DISTRICT

COURTHOUSE

MEDIA, DELAWARE COUNTY, PENNSYLVANIA

19063

(610) 891-4642
FAX (610) 891-5496

February 27, 2002

Matthew Carpenter
619 N. Monroe Street
Media, PA 19063
REGULAR MAIL
CERTIFIED MAIL
7099 3400 0005 4020 2698

Deborah L. Roffman, Esq.
339 West Baltimore Pike
Media, PA 19063

RE: CARPENTER vs KLEIMER
98-13564

Dear Counsel:

The above matter is now scheduled on my list for Trial on Wednesday, May 15, 2002. **The case** will be called at 10:00 a.m. that **morning.**

The case will be tried to completion, once begun. Witnesses must be available to either testify in person or by deposition. During the course of the trial, please be

prepared to present to the Court and tile opposing counsel copies of any cases upon which counsel rely regarding resolution of legal issues.

No **later than** Monday, May 6, 2002, **please submit** a written trial **memorandum including the following:**

1. A brief summary of the claim or defense to be presented and the issues that will be before the court for decision.
2. **A** list of the names and addresses of all witnesses who may be called to testify by the party filing the memorandum.
3. A statement of the legal issues in the case, including any unusual questions of evidence.
4. A list of all exhibits to be introduced at trial.
5. A brief statement of any in limine motions that will be filed. All in limine motions must be served upon the opposing counsel and the Court prior to the date of the trial memorandum required above.
6. Exhibits need not be pre-marked; they will be marked by the Court's clerk during the trial. Please bring sufficient copies of any document, which you intend to introduce into evidence.

In matters involving the determination of martial property, the attention of all counsel and parties acting on their own behalf is directed to the requirements set forth in Pa. R.C.P. No. 1920.33. Courtesy copies of all filings pursuant to this Rule must be delivered to chambers no later than fourteen (14) days before the scheduled trial date. Attention is similarly directed to the potential sanctions set forth in Pa. R.C.P. No. 4019©.

In other matters, all evaluations, expert reports, names and addresses of witnesses and exhibits shall be exchanged between or among counsel pursuant to the Rules of Civil Procedure, but in no event later than 10 days prior to the date of trial. Failure to comply may result in undisclosed material being excluded from evidence by the Court.

This Court will not grant continuance of trial for failure to comply with the above directive. All counsel and parties are hereby advised that continuances of trial will be granted only in extraordinary circumstances. Counsel are requested to immediately inform chambers if a resolution has been reached in any matter before the Court.

This matter will be tried in a Courtroom to be announced. Please do not hesitate to call my chambers if you have any questions or ff we can help you in any way prior to Trial.

Please note that trial days are limited. Please notify chambers as soon as possible if this case has been settled, so the scheduled days can be devoted to another case.

Very truly yours,

"s/Ann Osborne"
Ann Osborne, Judge

AO/TV
Enclosure

cc: Court File
Office File

APPENDIX K

COURT OF COMMON PLEAS

DELAWARE COUNTY
THIRTY-SECOND JUDICIAL DISTRICT
COURTHOUSE
MEDIA, DELAWARE COUNTY, PENNSYLVANIA
19063
(610) 891-4642
FAX (610) 891-5496

August 8, 2002

Matthew Carpenter
619 N. Monroe Street
Media, PA 19063
REGULAR MAIL
CERTIFIED MAIL
7099 3400 0005 4020 2483

Deborah L. Roffman, Esq.
339 West Baltimore Pike
Media, PA 19063

RE: CARPENTER vs KLEIMER
98-13564

Dear Counsel:

The above matter is now scheduled on my list for Trial on Monday, October 28, 2002. **The case** will be called at 10:00 a.m. that **morning.**

The case will be tried to completion, once begun. Witnesses must be available to either testify in person or by deposition. During the course of the trial, please be prepared to present to the Court and tile opposing counsel

copies of any cases upon which counsel rely regarding resolution of legal issues.

No **later than** Monday, October 21, 2002, **please submit** a written trial **memorandum including the following:**

1. A brief summary of the claim or defense to be presented and the issues that will be before the court for decision.
2. A list of the names and addresses of all witnesses who may be called to testify by the party filing the memorandum.
3. A statement of the legal issues in the case, including any unusual questions of evidence.
4. A list of all exhibits to be introduced at trial.
5. A brief statement of any in limine motions that will be filed. All in limine motions must be served upon the opposing counsel and the Court prior to the date of the trial memorandum required above.
6. Exhibits need not be pre-marked; they will be marked by the Court's clerk during the trial. Please bring sufficient copies of any document, which you intend to introduce into evidence.

In matters involving the determination of martial property, the attention of all counsel and parties acting on their own behalf is directed to the requirements set forth in Pa. R.C.P. No. 1920.33. Courtesy copies of all filings pursuant to this Rule must be delivered to chambers no later than fourteen (14) days before the scheduled trial date. Attention is similarly directed to the potential sanctions set forth in Pa. R.C.P. No. 4019©.

In other matters, all evaluations, expert reports, names and addresses of witnesses and exhibits shall be exchanged between or among counsel pursuant to the Rules of Civil Procedure, but in no event later than 10 days prior to the date of trial. Failure to comply may result in undisclosed material being excluded from evidence by the Court.

This Court will not grant continuance of trial for failure to comply with the above directive. All counsel and parties are hereby advised that continuances of trial will be granted only in extraordinary circumstances. Counsel are requested to immediately inform chambers if a resolution has been reached in any matter before the Court.

This matter will be tried in a Courtroom to be announced. Please do not hesitate to call my chambers if you have any questions or ff we can help you in any way prior to Trial.

Please note that trial days are limited. Please notify chambers as soon as possible if this case has been settled, so the scheduled days can be devoted to another case.

Very truly yours,

"s/Ann Osborne"
Ann Osborne, Judge

AO/TV
Enclosure

cc: Court File
Office File

Supreme Court
FILE
JUL 2
OFFICE OF TH

No. 02-1743

IN THE

Supreme Court of the United States

MATTHEW CARPENTER,

Petitioner,

v.

CHILDREN AND YOUTH SERVICES,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF IN OPPOSITION

THOMAS C. GALLAGHER
Counsel of Record
KATHLEEN M. RICCIARDI
HOLSTEN & ASSOCIATES
One Olive Street
Media, PA 19063
(610) 566-8800

Attorneys for Respondent

181612

COUNSEL PRESS
(800) 274-3321 • (800) 359-6859

STATEMENT OF THE CASE

This action was instituted by Matthew Carpenter ("Petitioner") on or about February 6, 2002. Petitioner brought this action in the Federal District Court for the Eastern District of Pennsylvania against Children and Youth Services ("Respondent"). It appeared that Petitioner's Complaint primarily attempted to assert claims under the Individuals with Disabilities Education Act, 20 U.S.C. § 1401, *et seq.* ("IDEA") on behalf of himself and his daughters Tiffany and Shannon Carpenter, seeking money damages and injunctive relief, including custody of the children. Petitioner appeared to seek relief available pursuant to 42 U.S.C. § 1983 and 29 U.S.C. § 794 ("Rehabilitation Act").

Petitioner alleged that Respondent failed to identify the disabilities of Tiffany and Shannon in violation of the "Child Find" requirement under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1401, *et seq*. Petitioner appeared to claim some form of discrimination under § 504 of the Rehabilitation Act, 29 U.S.C. § 794, although it was not specifically alleged. Petitioner identified various "failures" of Respondent that he was presumably asserting granted a right of recovery against Respondent. For ease of reference, these allegations are grouped into the following categories: failure to remove the children from the custody of their mother; failure to locate the children when their mother relocated; failure to investigate; failure to act on his complaints; failure to transport the children for visitation; failure to prevent the mental abuse of the children; and failure to investigate Tiffany's "school situation".

Petitioner requested that the United States District Court assume jurisdiction in this matter; issue a declaratory judgment that Respondent had violated his rights; award Tiffany and Shannon "wrap-around services"; put this case in front of a Federal Grand Jury; award custody of Tiffany and Shannon to him; and award damages totaling $25,000,000.00.

In addition to the suit that is the subject of this appeal, Petitioner also filed suit against the Penn Delco School District (incorrectly identified as "Pennell School District Elementary Unit") under Docket No. 02-CV-625. Both cases were assigned to the Honorable Jan E. DuBois.

On or about April 3, 2002, Respondent filed a Motion to Dismiss Petitioner's Complaint. Counsel for Penn Delco School District also filed a Motion to Dismiss. Thereafter, on June 10, 2002, the Honorable Jan E. DuBois conducted a conference call with counsel for Respondent, counsel for Penn Delco School District and Petitioner. At the conclusion of the conference, Judge DuBois indicated his intention to issue an opinion granting the Motions and Dismissing Petitioner's Complaints. Judge DuBois issued a joint Memorandum dated August 9, 2002 dismissing both Complaints. Petitioner filed an additional pleading dated August 22, 2002, which the District Court treated as a Motion for Reconsideration. Judge DuBois denied this request by Order dated August 23, 2002.

Petitioner filed a Notice of Appeal with the Unites States Court of Appeals for the Third Circuit on September 18, 2002. On March 4, 2003, the Court of Appeals for the Third Circuit affirmed the decision of the District Court dismissing the Complaint.

REASONS FOR DENYING THE WRIT

A. There Is No Compelling Reason That The Petition For Writ Of Certiorari Should Be Granted.

The only issue before this Court is whether Petitioner's Complaint was appropriately dismissed. Petitioner's petition is completely devoid of reasons why this Honorable Court should exercise its discretion to grant certiorari in this matter. Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. U.S. Sup. Ct. R. 10.

Petitioner asserts that his claims are of "such imperative public importance as to justify deviation from the normal appellate practice to require immediate determination in this court." Pet. 2. It does not appear that this is the appropriate standard as the United States Court of Appeals for the Third Circuit had already entered its judgment, rather than this being a request for certiorari while a matter was still pending before a Circuit Court of Appeals as is contemplated under U.S. Sup. Ct. R. 11.

The only argument that could potentially be advanced is that the decision so far departed from the accepted and usual course of judicial proceedings as to call for the exercise of this Court's supervisory power. It is clearly not appropriate or warranted in this situation. Judge DuBois considered Petitioner's voluminous Complaint and response to the Motion to Dismiss, as well as taking the opportunity to speak with counsel and Petitioner prior to Dismissing Petitioner's Complaints. The Court of Appeals for the Third Circuit, reviewing the same voluminous documents, agreed that the Petitioner's Complaint did not state a valid cause of action and was properly dismissed.

B. Petitioner's Misstatement Of Fact

In his petition, Petitioner raise sixty-two questions/ statements, as well as several pages of allegations under his "Statement Under Rule 14" and the section captioned "The Setting". The issues raised by Petitioner and the facts alleged should have no bearing on this Court's determination of his petition. Rather than respond to each and every comment, Respondent simply indicates that it is not in agreement with Petitioner's allegations or interpretations of the facts. Petitioner raises many issues that are not contained in the record below and that allegedly occurred after the District Court and Court of Appeals for the Third Circuit addressed this matter. They too are irrelevant to this Court's review of this petition and should not be considered.

CONCLUSION

For all of the foregoing reasons, Respondent respectfully requests that this Honorable Court deny the Petition.

Respectfully submitted,

THOMAS C. GALLAGHER
Counsel of Record
KATHLEEN M. RICCIARDI
HOLSTEN & ASSOCIATES
One Olive Street
Media, PA 19063
(610) 566-8800

Attorneys for Respondent

Supreme Court, U.S.
FILED
JUL 14 2003
OFFICE OF THE CLERK

No. 02-1743

IN THE

Supreme Court of the United States

MATTHEW CARPENTER

Petitioner,

v.

CHILDREN AND YOUTH SERVICES

Respondent,

On Petition For Writ Of Certiorari To The
United States Court Of Appeals Third Circuit Court

REPLY BRIEF

MATTHEW CARPENTER
Pro se
619 N. MONROE STREET
MEDIA, PA 19063
610-565-1331

STATEMENT OF CASE

For five (5) years, CYS still must not know that I had to file complaints against the mother and CYS because of not doing their job. Maybe I have been looking and complaining to the wrong agency. CYS may not know how to correct or stop children from being battered, or stop child abuse, mental or how to do anything to protect the children. If someone knows, please tell me.

On June 4, 2003 I saw Tiffany and Shannon. I also saw them again on June 18, 2003. On both dates there was mental abuse and again broken Court Orders happened. I saw their bodies but someone told them to cover their faces and say nasty, hurtful things to me. Both times they disrespected me. On July 9, 2003 four (4) Court Orders were broken in one night. I even broke one. Judge Osborne can't or won't discipline anyone for her new Order. Out of four (4) visits with my children, ten (10) times the new Court Order was broken. Even my children broke a Court Order. One of the reasons the Order is always broken is no one yet, except me, has been disciplined or it was fixed that the mother could do whatever she wants. Media is still lawless and without order. Plus, my daughter, Shannon, had another bruise on her leg on July 9, 2003.

Now on the issue of the mental abuse, I don't want to lose my children again for a year and a half. If I call CYS I definitely know they will do nothing and I have a chance of losing them again for a year and a half. Maybe they just don't know how to deal with this issue. Maybe I have been complaining to the wrong agency. On just two (2) visits they had bruises on their bodies. If I could get someone to start at the mental abuse, I wonder what things could happen next. (Physical) If anyone want to see if I am telling the truth just write to Visitation Station, P.O. Box 601, Media, PA 19063.

This now completely proves that lawyers from Pennell School District and CYS and especially Honorable Jan. DuBois are completely wrong.

Still on just four (4) visits with my children we have a hard time following orders.

From 7/98 till 2/6/02 CYS workers have been hearing complaints and taking complaints from me but I know that CYS lawyer does not know or understand that in some way the workers have failed to do their job or even do what is in their own reports (11/5/98), that is S.C.O.H. services. S.C.O.H service is a wrap around service or a nanny service. For CYS to put that in their reports it should indicate to someone outside of Media that these children need special care. Even a doctor suggested this (Dr. Larry More - five (5) years ago) see page four (4) of Petition for Writ of Certiorari. I still do not know if the CYS lawyer knows where my children are. I wonder if the CYS lawyer even cares where my children are since as of 9/11/02 she had no idea where my children were.

In CYS Brief in Opposition they forgot to mention the five (5) years of physical abuse from mother's boyfriends and friends and their bad investigating which led to one and a half years of not seeing my children after CYS found me (unfounded).

For following reasons the Petition for Writ of Certiorari should be granted.

QUESTIONS

I still need to use questions to get my point across and to understand the case.

1. If three (3) lawyers, four (4) judges cannot understand or cannot read facts about me seeing my children, how much more are they wrong about?

2. Is there any agency that can stop physical and mental abuse?

3. Is CYS still above the law?

4. What would it take for any judge to discipline the mother, State of PA, CYS or Pennell for their many mistakes?

5. Was the last Order from Judge Osborne fixed?

6. What would happen if I called CYS on the recent abuse to my children?

7. Would I lose them for another year and a half?

8. Should I take this chance?

9. Do you still remember that if I take these current problems to the State they won't let me put a witness on the stand? (Hoping Visitation Station)

10. Do you still remember the State cannot enforce the law correctly or follow their own orders or even recognize evidence?

11. Is this yet such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in the Court?

12. Are these proceedings normal?

13. Would this now qualify for such imperative importance as to justify deviation from normal appellate practice and to require immediate determination in this Court?

14. Do you think that as time goes on this case will break more Court Orders?

15. After 25 visits could you guess how many more Court Orders will be broken and who will not be afraid to discipline the people who have broken them for the people who have not broken the Court Orders?

16. Is it important for the CYS lawyer to know where my kids are now if I dare to call and report more abuse?

17. If I had not filed a complaint in Federal Court on February 6, 2002 would I have gotten to see my children sooner?

18. If those 62 question are not facts, why hasn't CYS come forward and presented their facts proving the others are wrong?

19. Would I be wrong to say CYS workers are not telling the CYS lawyer everything that occurred for four (4) years?

20. If the Supreme Court won't take this case can they at least make sure that the one Media police officer does not physically abuse the 17-year-old boy and when it gets to Court make sure the Judge does not protect the police officer?

21. Can the Supreme Court get me a number to another agency that will protect my children even from the past and the current mental abuse?

CONCLUSION

Media is still lawless even after four (4) visits with my children. If Honorable Judge Jan E. DuBois would have understood that I was allowed to see my children, I could have been seeing them for a year now. To miss something that big and write the opposite, after all the times my cases have been fixed in Delaware County Courthouse, now I have a different opinion. The way I look at it, Judge DuBois cost me a year without my children but really it was CYS.

Please reinstate the law in Media.

Respectfully,

Matt Carpenter

Matt Carpenter

7-12-03

Date